

## CODIFICATION

Section was formerly classified to section 7273 of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

## PRIOR PROVISIONS

Provisions similar to those in this section were contained in the following appropriations act:

Pub. L. 96-164, title II, § 211, Dec. 29, 1979, 93 Stat. 1264.

## AMENDMENTS

2003—Pub. L. 108-136, § 3141(j)(5)(C), made technical amendment to section catchline and substituted “the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1981 (Public Law 96-540) or any other Act” for “this or any other Act” in text.

## PART C—OTHER MATTERS

**§ 2771. Repealed. Pub. L. 112-239, div. C, title XXXI, § 3131(u)(1), Jan. 2, 2013, 126 Stat. 2184**

Section, Pub. L. 107-314, div. D, title XLVII, § 4731, formerly Pub. L. 95-509, title II, § 208, Oct. 24, 1978, 92 Stat. 1779; renumbered Pub. L. 107-314, div. D, title XLVII, § 4731, and amended Pub. L. 108-136, div. C, title XXXI, § 3141(j)(7), Nov. 24, 2003, 117 Stat. 1782, provided that the Secretary was to submit to the Congress for fiscal year 1980, and for each subsequent fiscal year, a single request for authorization of appropriations for common defense and security programs.

**§ 2772. Quarterly reports on financial balances for atomic energy defense activities**

**(a) Reports required**

Not later than 15 days after the end of each fiscal year quarter, the Secretary of Energy shall submit to the congressional defense committees a report on the financial balances for each atomic energy defense program at the budget control levels used in the report accompanying the most current Act appropriating funds for energy and water development.

**(b) Elements**

Each report under subsection (a) shall set forth, for each program covered by such report, the following as of the end of the fiscal year quarter covered by such report:

- (1) The total amount authorized to be appropriated, including amounts authorized to be appropriated in the current fiscal year and amounts authorized to be appropriated for prior fiscal years.
- (2) The amount unobligated.
- (3) The amount unobligated but committed.
- (4) The amount obligated but uncosted.

**(c) Presentation**

Each report under subsection (a) shall present information as follows:

- (1) For each program, in summary form and by fiscal year.
- (2) With financial balances in connection with funding under recurring DOE national security authorizations (as that term is defined in section 2741(1)) of this title presented separately from balances in connection with funding under any other provisions of law.

(Pub. L. 107-314, div. D, title XLVII, § 4732, as added Pub. L. 112-239, div. C, title XXXI, § 3143(a), Jan. 2, 2013, 126 Stat. 2196.)

SUBCHAPTER VIII—ADMINISTRATIVE MATTERS

PART A—CONTRACTS

**§ 2781. Costs not allowed under covered contracts**

**(a) In general**

The following costs are not allowable under a covered contract:

(1) Costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).

(2) Costs incurred to influence (directly or indirectly) legislative action on any matter pending before Congress or a State legislature.

(3) Costs incurred in defense of any civil or criminal fraud proceeding or similar proceeding (including filing of any false certification) brought by the United States where the contractor is found liable or has pleaded nolo contendere to a charge of fraud or similar proceeding (including filing of false certification).

(4) Payments of fines and penalties resulting from violations of, or failure to comply with, Federal, State, local, or foreign laws and regulations, except when incurred as a result of compliance with specific terms and conditions of the contract or specific written instructions from the contracting officer authorizing in advance such payments in accordance with applicable regulations of the Secretary of Energy.

(5) Costs of membership in any social, dining, or country club or organization.

(6) Costs of alcoholic beverages.

(7) Contributions or donations, regardless of the recipient.

(8) Costs of advertising designed to promote the contractor or its products.

(9) Costs of promotional items and memorabilia, including models, gifts, and souvenirs.

(10) Costs for travel by commercial aircraft or by travel by other than common carrier that is not necessary for the performance of the contract and the cost of which exceeds the amount of the standard commercial fare.

**(b) Regulations; costs of information provided to Congress or State legislatures and related costs**

(1) Not later than 150 days after November 8, 1985, the Secretary of Energy shall prescribe regulations to implement this section. Such regulations may establish appropriate definitions, exclusions, limitations, and qualifications. Such regulations shall be published in accordance with section 1707 of title 41.

(2) In any regulations implementing subsection (a)(2), the Secretary may not treat as not allowable (by reason of such subsection) the following costs of a contractor:

(A) Costs of providing to Congress or a State legislature, in response to a request from Congress or a State legislature, information of a factual, technical, or scientific nature, or advice of experts, with respect to topics directly related to the performance of the contract.

(B) Costs for transportation, lodging, or meals incurred for the purpose of providing such information or advice.

**(c) “Covered contract” defined**

In this section, “covered contract” means a contract for an amount more than \$100,000 entered into by the Secretary of Energy obligating funds appropriated for national security programs of the Department of Energy.

**(d) Effective date**

Subsection (a) shall apply with respect to costs incurred under a covered contract on or after 30 days after the regulations required by subsection (b) are issued.

(Pub. L. 107-314, div. D, title XLVIII, §4801, formerly Pub. L. 99-145, title XV, §1534, Nov. 8, 1985, 99 Stat. 774; Pub. L. 100-180, div. C, title I, §3131(a), Dec. 4, 1987, 101 Stat. 1238; renumbered Pub. L. 107-314, div. D, title XLVIII, §4801, and amended Pub. L. 108-136, div. C, title XXXI, §3141(k)(2), Nov. 24, 2003, 117 Stat. 1783.)

CODIFICATION

In subsec. (b)(1), “section 1707 of title 41” substituted for “section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b)” on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was formerly classified to section 7256a of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2003—Pub. L. 108-136, §3141(k)(2)(D)(i), made technical amendment to section catchline.

Subsec. (b)(1). Pub. L. 108-136, §3141(k)(2)(D)(ii), substituted “November 8, 1985,” for “the date of the enactment of this Act,” in the original, which for purposes of codification had been changed to “November 8, 1985,” thus requiring no change in text.

1987—Subsec. (b). Pub. L. 100-180 designated existing provisions as par. (1) and added par. (2).

REGULATIONS

Pub. L. 100-180, div. C, title I, §3131(b), Dec. 4, 1987, 101 Stat. 1239, provided that: “Regulations to implement paragraph (2) of section 1534(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1986 (as added by subsection (a)) [50 U.S.C. 2781(b)(2)] shall be prescribed not later than 90 days after the date of the enactment of this Act [Dec. 4, 1987]. Such regulations shall apply as if included in the original regulations prescribed under such section.”

**§ 2782. Prohibition and report on bonuses to contractors operating defense nuclear facilities**

**(a) Prohibition**

The Secretary of Energy may not provide any bonuses, award fees, or other form of performance- or production-based awards to a contractor operating a Department of Energy defense nuclear facility unless, in evaluating the performance or production under the contract, the Secretary considers the contractor’s compliance with all applicable environmental, safety, and health statutes, regulations, and practices for determining both the size of, and the contractor’s qualification for, such bonus, award fee, or other award. The prohibition in this subsection applies with respect to contracts entered into, or contract options exercised, after November 29, 1989.

**(b) “Department of Energy defense nuclear facility” defined**

In this section, the term “Department of Energy defense nuclear facility” has the meaning given such term by section 2286g of title 42.

**(c) Regulations**

The Secretary of Energy shall promulgate regulations to implement subsection (a) not later than March 1, 1990.

(Pub. L. 107-314, div. D, title XLVIII, §4802, formerly Pub. L. 101-189, div. C, title XXXI, §3151, Nov. 29, 1989, 103 Stat. 1682; renumbered Pub. L. 107-314, div. D, title XLVIII, §4802, and amended Pub. L. 108-136, div. C, title XXXI, §3141(k)(3), Nov. 24, 2003, 117 Stat. 1783; Pub. L. 112-239, div. C, title XXXI, §3131(v), Jan. 2, 2013, 126 Stat. 2184.)

CODIFICATION

Section was formerly classified to section 7256b of Title 42, The Public Health and Welfare, prior to renumbering by Pub. L. 108-136.

AMENDMENTS

2013—Subsecs. (b) to (d). Pub. L. 112-239 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b), which related to a report on Rocky Flats bonuses.

2003—Pub. L. 108-136, §3141(k)(3)(D)(i), made technical amendment to section catchline.

Subsec. (a). Pub. L. 108-136, §3141(k)(3)(D)(ii), substituted “November 29, 1989” for “the date of the enactment of this Act” in the original, which for purposes of codification had been changed to “November 29, 1989” thus requiring no change in text.

Subsec. (b). Pub. L. 108-136, §3141(k)(3)(D)(iii), substituted “May 29, 1990,” for “6 months after November 29, 1989,”.

Subsec. (d). Pub. L. 108-136, §3141(k)(3)(D)(iv), substituted “March 1, 1990” for “90 days after November 29, 1989”.

**§ 2783. Contractor liability for injury or loss of property arising out of atomic weapons testing programs**

**(a) Short title**

This section may be cited as the “Atomic Testing Liability Act”.

**(b) Federal remedies applicable; exclusiveness of remedies**

**(1) Remedy**

The remedy against the United States provided by sections 1346(b) and 2672 of title 28, by the Act of March 9, 1920 (46 U.S.C. App. 741-752),<sup>1</sup> or by the Act of March 3, 1925 (46 U.S.C. App. 781-790),<sup>1</sup> as appropriate, for injury, loss of property, personal injury, or death shall apply to any civil action for injury, loss of property, personal injury, or death due to exposure to radiation based on acts or omissions by a contractor in carrying out an atomic weapons testing program under a contract with the United States.

**(2) Exclusivity**

The remedies referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining civil

<sup>1</sup> See References in Text note below.